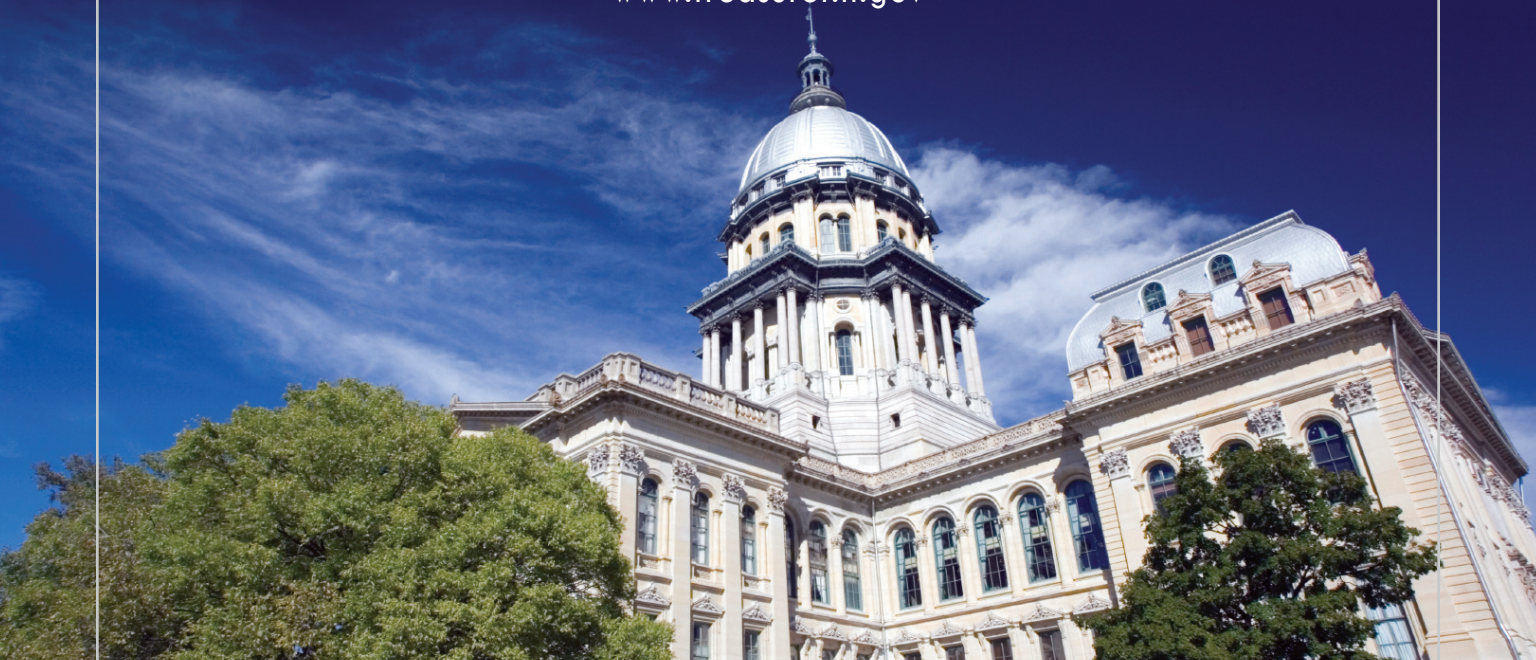
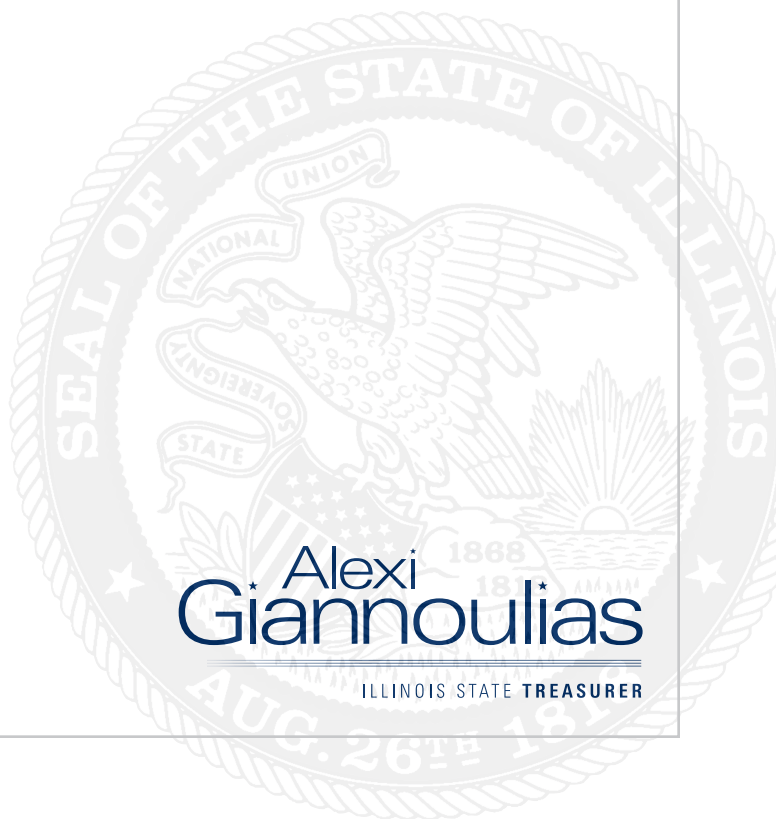


Office of the Illinois State Treasurer
www.treasurer.il.gov



The Capital Litigation Trust Fund



The Capital Litigation Trust Fund was created by the Illinois General Assembly to provide defense counsel and prosecutors access to sufficient resources to cover the costs of litigating death penalty cases.

The bipartisan legislation was prompted by the overturned convictions of 13 individuals whom the courts determined had been wrongly accused or convicted of capital crimes and sentenced to death row.

As a result, the state sought to ensure that a lack of financial resources would not deny a death penalty defendant access to competent counsel and the ability to mount a credible defense.

The fund also provides money for prosecutors, helping to defray the high costs of death penalty cases.

One portion of the fund allocates an annual amount of financial assistance to pay for capital cases in Cook County, where the majority of death penalty cases are tried. The remainder of the fund is earmarked for capital expenses throughout the rest of the state.

Every fiscal year, money allocated by the General Assembly is transferred from the state's General Revenue Fund to the Capital Litigation Trust Fund administered by the State Treasurer's Office.



A legislative history...

The Capital Litigation Trust Fund was created in 1999 as part of the Capital Crimes Litigation Act (725 ILCS 124).

The Illinois Legislature overwhelmingly approved the measure as a means to promote fairness in the defense and prosecution of death penalty cases. The legislation took effect on January 1, 2000.

In 2005, the Legislature amended the Act to demand greater fiscal accountability from attorneys litigating death penalty cases. Defense attorneys are now required to submit a budget and an itemized accounting of work performed in a death penalty case.



The Capital Litigation Trust Fund promotes fairness in trials of capital crimes by compensating for legal fees and expenses incurred in death penalty cases.

The Trust Fund provides funds for:

Annual requests from the Cook County Public Defender and Cook County State's Attorney. *(These funds are disbursed by the Cook County Treasurer's Office).*

Reimbursement for Public Defenders, appointed defense counsel, State's Attorneys (in counties outside of Cook) and State's Attorneys Appellate Prosecutor, State Appellate Defender, and the Illinois Attorney General. *(These funds are disbursed by the State Treasurer's Office).*

According to the Act, eligible expenses may include:

- Investigation assistance
- Testimony of expert witnesses
- Forensic and DNA testing
- Mitigation specialists
- Other trial-related expenses

Outside of Cook County, the Act requires that the court approve trial expenses submitted by public defenders and appointed defense counsel before they receive payment. State's Attorneys in counties other than Cook may have trial expenses approved by either the Illinois Attorney General or the State's Attorney Appellate Prosecutor.

If approved, these bills are forwarded to the State Treasurer's Office (for cases outside Cook County) or the Cook County Treasurer's Office (for cases in Cook County), which release the money for payment. If a state's attorney indicates the death penalty will not be sought, the Capital Litigation Trust Fund does not pay for any of the incurred expenses.

For more information, please visit
www.treasurer.il.gov

Frequently Asked Questions

Q: At what point in a case is the Capital Litigation Trust Fund applicable?

A: Funds are available once an individual has been charged and arraigned in a death penalty-eligible offense as long as the state's attorney has not filed a certificate or stated on the record in open court that the death penalty will not be sought.

Q: Are all expenses for a death penalty case covered by the trust fund?

A: No. The trust fund is designed to supplement ordinary and customary funding by the county where the case is being tried.

Q: Should all bills be remitted at once?

A: No. Counsel should submit bills periodically for prompt payment. All bills must be itemized.

Q: What is the compensation?

A: Compensation rates are revised on an annual basis based on the Consumer Price Index. In 2008, compensation for appointed-trial counsel was paid at a rate of up to \$148.88 per hour.

Q: Does the fund reimburse travel expenses?

A: If travel expenses have been approved and certified by the court, counsel may submit them for reimbursement.

Q: What if there is a question about expenses?

A: Specific questions regarding expenses should be directed to the court.

Q: Doesn't a description of services in an itemized bill disclose information that can be used against a party?

A: Bills are filed with the court under seal, and are reviewed by the judge and the billing attorney, without opposing counsel present, but in the presence of a court reporter.

Q: Must requests for specialists be submitted before they are retained?

A: In general, the court should be petitioned before specialist/expert services are used.

Q: What if an expert's services need to be retained prior to court approval?

A: Counsel may obtain services without prior court authorization, but must seek certification that these services were reasonable and necessary before they are paid.

Q: What discretion does the Illinois State Treasurer's Office have regarding paying claims submitted to the trust fund?

A: None. The Illinois State Treasurer's Office pays claims that the court certifies for payment under the statute.

Q: Has the Illinois State Treasurer's Office refused to pay an expense?

A: Yes. The State Treasurer's Office does not pay expenses when they do not satisfy the criteria of the Capital Crimes Litigation Act.

Q: What oversight does the Illinois State Treasurer's Office have on the way Cook County spends their money?

A: None. The Cook County Treasurer's office submits monthly reports describing the expenses paid, how much was spent on each expense and the current trust fund balance.

Q: What is the average cost of a death penalty case?

A: Costs reimbursed for cases by the trust fund typically range from \$500,000 to \$700,000.

Q: Is there a limit on how much can be spent on a capital trial?

A: There is no statutory limit; however, the court must consider all reimbursable expenses reasonable and necessary.

Q: How long does it take for an expense to get paid?

A: For counties other than Cook County, the average time for payment is four to six weeks from the time the request reaches the State Treasurer's Office.

To learn more about the Capital Litigation Trust Fund and view a copy of the statute visit
www.treasurer.il.gov

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